THE BROADCASTING SERVICES (CONTENT) (THE POLITICAL PARTY ELECTIONS BROADCASTS) CODE, 2014

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THE BROADCASTING SERVICES (CONTENT)(THE POLITICAL PARTY ELECTIONS BROADCASTS) CODE, 2014

(Made under regulation 7(2))

PART I

PRELIMINARY PROVISIONS

Citation

1. This Code may be cited as the Broadcasting Services (Content)(the Political Party Elections Broadcasts) Code, 2014 and shall come into operation on the date of publication in the Gazette.

Application and scope

2. This code shall apply and govern all content service providers operating in Mainland Tanzania while covering general elections, by-elections and re-elections.

Interpretation

3. In these Code unless the context requires otherwise-

   “Act” means the Tanzania Communications Regulatory Authority Act and the Electronic and Postal Communications Act;

   “Authority” means Tanzania Communications Regulatory Authority;

   “Board” means the Board of Directors of the Authority;

   “broadcaster” means a person who provides broadcasting content services under and in accordance with a broadcasting license issued to it by the Authority;
“Content Committee” means a Committee established under Section 26 of the TCRA Act, which is responsible for regulation of broadcast content aired by any broadcasting station or any electronic communication media as a broadcasting service;

“Code” means rules, guidelines and principles for coverage of political party elections in Tanzania by the electronic media;
“complaint” means any statement of dissatisfaction with goods or services made by a consumer; bad conduct in the process of service provision; content not compliant to broadcasting ethics;

“content services” means services offered for sound, data, text or images whether still or moving except where transmitted on private communication;
“content services provider” means a licensed person who provides broadcasting content services under and in accordance with the provisions of the Laws and licensing conditions issued by the Authority;
“complainant” for the purpose of these Code, means a person who lodges a complaint to the Authority against aired material by content service provider which injured his interests;
“Director General” means the Director General of the Authority;
“electronic communication” means radio communication or as appropriate, the communication of information, in the form of speech or other sound, data, text or images by means of guided or unguided electromagnetic energy;
“elections” has the meaning ascribed to it under the Election Act;
“Minister” means Minister responsible for broadcasting and content matters;
“radio communications” means any telecommunication by means of Hertzian or radio waves;
“Regulations” means the Broadcasting Services (Content) Regulations;
“party election broadcasts” means free time slots allocated to political parties/contestants to inform the electorate of their policies;
“political advertisements” means paid for advertisements intended to advance the interests of any political party;
“political party” means a registered entity as defined in Election
“political party materials” means any form of material, from a political rally, political speaking, political debate, party press conference, and party statement to election campaigns;

“political party programme” means a broadcast of political content which influence people to make political decisions and choices when voting.

PART II
NEWS BROADCASTS

4. Every content services provider shall ensure that-

(a) all news broadcast during political party elections is reported and presented in an objective and impartial manner and without any expression of the broadcaster’s own views;

(b) the treatment of current affairs, including matters which are either of public controversy or the subject of current public debate, is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner;

(c) they provide fair, equitable, balanced, accurate and impartial reporting of political events and fair, equitable and balanced coverage to all parties, alliances and independent candidates at elections;

(d) the party political information included in news broadcast is truly news worth that is – new, fresh, interesting and relevant, like other material competing to be broadcast in the news;

(e) political party materials be carried in brief and free of commentary by the presenter;

(f) politicians do not attract radio, and television coverage by continually issuing press statements or undertaking such as publicity activities as normally deserve radio and television coverage such us
donating of charity, appearing at sports meeting and public gatherings that may attract coverage;

(g) not allow broadcasting any inflammatory and divisive matter in its provocative form;

(h) reports are accurate, fairly and balanced manner about the election procedures, and the positions of political parties candidates;

(i) coverage of the elections is designed to emphasise the relevance of elections and encourage participation by all citizens in the election process; and

(j) during elections period news are focused on issues of relevance and interest to citizens and not purely cover events of political parties or contestants.

5. Every content services provider shall ensure programmes and its presentation-

(a) comply with the provisions of the Policies, Acts and Regulations governing operations of the electronic media;

(b) does not involve character assassination or vilification of any candidate or other person, or any adverse comment on the integrity of any person;

(c) does not contain political appeals based on race, colour, disability, religion, creed, gender or place of origin;

(d) programme shall not contain any defamatory, offensive or blasphemous language, or any language (or tone of language) which may provoke violence or sedition;

(e) programme shall not contain any remarks likely to hurt the feelings of any person by reason of his gender, sex, race, colour, caste, creed or place of origin;

(f) political party broadcasts shall only be those in which
the parties seek to explain their policies, programmes and targets;

(g) political party broadcasts shall be clearly identified as such, and shall not be presented in a manner that would mislead the audience to believe that the programme is of any other character;

(h) while a broadcast presenter or moderator may interact with politicians in the course of his/her professional duties, this interaction shall not be such as to lead to the belief that he/she is either a member or sympathizer of any political party;

(i) every content services provider shall produce and report political news and programmes in an objective and fair manner;

(j) all content services providers shall comply to the directives given by the Election Act;

(k) content services provider shall ensure that any impression of one-sidedness is avoided in all programming and not be influenced by political or other interests;

(l) in audience participated programmes and phone-ins callers would not be allowed to plant information or make unsubstantiated remarks that could undermine the interests of any particular party/ Individual or could damage its votes from certain community. An election programme may include debate, advocacy and opinion, but factual information should be clearly distinguishable from opinion or advocacy.

6. Where a content service provider interviews in a political programme shall ensure that-

(a) an interviewee identified as a representative of a party has been duly designated to speak on behalf of the party;

(b) no interviewee in a political programme is interviewed live without his consent;
(c) moderators of such programmes exercise restraints and ensure that interviewees stick to the theme chosen. The moderator shall warrant that the programme does not degenerate into a mockery and abuse of language;

(d) an edited or shortened version of an interview does not misrepresent or distort an interviewee’s views and contribution;

(e) an interview not be edited so as to appear by juxtaposition to associate a contributor with a line of argument which he is unlikely to adhere to and on which he is given no opportunity to comment in the programme or feature;

7.- (1) Content services provider shall endeavour to ensure a fair and equitable balance of views expressed by phone-in callers on political matters and based on principles of live phone-in programmes which are Fairness, Integrity, Objectivity and Balance.

(2) Content services provider shall take such measures as are necessary to ensure that no caller or contributor participating in political or other programmes contravenes the Regulations.

(3) The privacy of callers should be respected and their personal information safeguarded and the telephone number of callers should not be revealed to third party.

(4) Content services provider shall ensure that callers shall go through a scanning process before going live on air in a programme, whereby the scanning process will also include a delay of 3 to 5 second from studio to the transmitting end which will help in editing any live content which goes against the Regulations.

(5) All live programme shall be presented in special care and ensure that all information are accurate and without misinterpretation of facts.

(6) The presenter should be alert and prepared to challenge a caller who says something that is problematic.

(7) Viewers, listeners and callers during live programmes shall be treated with respect, honest and fairness.

8. (1) Content services provider will provide opportunities for the public to take part in political debates on election issues.
Participants of such broadcasts must be as representative as possible of different views and sectors of society.

(2) A political discussion shall consist of a moderator and at least one representative each of the political parties discussing a subject or related subjects. If one side fails to participate in the dialogue or interview when two parties are involved the programme should be postponed until both parties participating are represented. For the case of more than two parties involved, and if there is no reasonable cause for absence of a party representative, the dialogue or interview shall proceed.

9. In order to provide a certain balance within the audience the content service provider shall ensure that-

(a) each of the political parties is invited to bring a reasonable number of supporters as the station may determine;
(b) the party supporters seats separately to enable the moderator to use them judiciously;
(d) the moderator is not attempting to summarize or make conclusions at the end of the programme, or even in the course of it;
(e) content services provider have the responsibility to treat all political parties or contestants equitably and facilitate fair play;
(f) afford political parties or candidates the right of reply where a report aired under the editorial responsibility of the broadcaster contains inaccurate information or unfair criticism based on a distortion of facts;
(g) the opportunity to reply is given within 24 hours in a programme of similar weight and audience;
(h) not allowing political debates where participants are invited or otherwise to degenerate into a situation of mockery of our electoral system.
PART III

BROADCASTING DURING POLITICAL ELECTION CAMPAIGNS

10.- (1) Broadcasters shall regard with caution any statement or action by an official of an incumbent party and need to check thoroughly whether for example public appearances of government officials are strictly on government business or part of their election campaign.

(2) During political campaigns the content services provider shall observe that:

(a) balance in political programmes is achieved through equal presentation of alternative or opposing points of view or interest;
(b) whenever practicable, time shall be allotted fairly to parties contesting the elections;
(c) the time allocated to the parties shall have, as much as possible, the same premium.
(d) log shall be kept by each station showing the allocation of the time to each party with dates, title of programme and other information as may requested by the National Electoral Commission to ensure fairness;
(e) the subject of a political broadcast shall preferable be similar as between one party and another , except where the subject has been chosen by the respective party;
(f) persons nominated to put across the various parties’ viewpoints shall generally be of comparable status in their parties , likewise, party representatives shall be persons named by the parties concerned;
(g) where a right of reply is upheld , the aggrieved party shall be given an equal time and opportunity to reply in the same format of the programme that led to the complaint;
(h) Where the first right of reply leads to another complaint, a debate or discussion programme shall be arranged; or
(i) Political party election broadcasts may only be transmitted during the election broadcast period.
11. Every content services provider who transmits party election broadcasts shall-
   (a) make available, on every day throughout the election broadcast period the number of slots for the transmission of election broadcasts;
   
   (b) do so in accordance with the sequence and timing prescribed by the Code.

12. All public opinion polls shall be treated with caution and in reporting the findings of such polls broadcasters shall inform the public on the source of the poll, the commissioning agency, the period of time over which it was conducted, the sample size and the likely margin of error. Similar care must be applied when dealing with exit polls.

13.—(1) To avoid conflict of interest, staff members of a content services provider who hold political office, or is an office bearer with a political party or active in political campaigning or standing for parliament, will not be allowed to broadcast or participate in editorial decision making during the election period.

   (2) The content services provider shall, in particular, ensure that, during the twelve hours immediately preceding polling day, they do not broadcast any politically-related matter which may reasonably upset the balance to be observed throughout the election broadcast period pursuant to this Codes.

   (3) The content services provider shall not make their personal opinions part of any reports and are supposed to give actualities and
eye-witness accounts while reporting periodically turnout at polling stations.

(4) The observers' interviews may be preferred for transparency of polling.

(5) Reporters are bound to maintain neutrality and avoid speculative or hypothetical reporting.

(6) No defamatory reports shall be aired and reporter must have the knowledge of libel and defamation laws.

(7) Licensees shall not be permitted to broadcast within any programmes the following to the public on any polling day until after the close of the poll-
(a) discussion and analysis of election and referendum issues;
(b) the result or purported result of the voting in a constituency before the close of all of the polling stations in that constituency;
(c) the results of any opinion poll;
(d) any political advertisements, political broadcasts or any other election programming produced by or on behalf of a candidate, political party or other person or entity.

14. –(1) The content services provider shall have an obligation to inform the public of the election results, as they become available. Special care should be taken to ensure the accuracy of all results broadcast.

(2) The content services provider shall not broadcast views that could incite violence or advocate hatred that is based on race, ethnicity, gender, religion or political conviction, and that constitute incitement to cause harm.
15. –(1) The content services provider shall where applicable in terms of country laws afford political parties or contestants equitable and fair access to party election broadcasts and political advertisements.

(2) The content services provider shall ensure in such instances that they develop transparent formulae for calculating the allocation of air time, including the amount of time and the time of broadcast, to be provided to individual political parties or contestants.

(3) No advertisement, other than a paid political announcement, shall be broadcast towards any political end.

(4) A paid political announcement shall be factual and informative in nature, and shall contain only the name of the party, the name(s) of the speaker(s) and the time and place of the event.

(5) Neither slogan of any nature nor music or songs which may have a political connotation shall be broadcast during, or immediately before or after, any paid political announcement.

(6) No broadcasting licensee shall put on air a party election broadcast immediately before, or immediately after, an advertisement or a paid political announcement.

(7) The content services provider shall develop guidelines from time to time on submission of such party election broadcasts and political advertisements including details of the required time frames, formats and technical standards. Broadcasters shall publish such guidelines widely and copy submitted to the Authority.

(8) The content services provider shall develop transparent mechanisms and procedures to ensure that political advertisements and party election broadcasts are not unilaterally edited or amended without consent of political parties and contestants. Such alterations are only possible if such advertisements or broadcasts do not comply with reasonable technical standards, laws of the country or any electoral codes.

(9) Where a political party or contestant in such instances refuses to edit or amend such advertisement or broadcast, the broadcaster has the right to refuse to air it. Broadcasters should be indemnified by political parties against any cost, damage or loss incurred or sustained as a result of any claim arising from such
broadcasts or advertisements

(10) By law, the same rate card and terms including any volume discounts and bonus allocation shall be offered to all parties and the same offered to all candidates.

(11) Electorate candidate advertising must promote the electorate vote only, although the party name and policies may be mentioned. Electorate candidates cannot run negative advertising.

PART IV

ALLOCATION OF AIR –TIME

16.- (1) The general guide on allocation of air-time shall apply to practically all party political broadcasts.

(2) During elections, party political broadcasts shall be aired in accordance with approved programme line-up by the Authority.

(3) A party representative shall speak in a straight talk to viewers on a subject or range of policies and the duration shall not be more than 25 minutes.

(4) Air-time in respect of party election broadcasts shall be allocated by the broadcaster to the various parties contesting the elections on the basis of the criteria determined by the broadcaster.

17. (1) The content services provider are free to sell airtime for the purpose of political campaigns.

(2) No content services provider shall be involved in the production of such announcement or jingles.

(3) No voices of members of staff of a content service provider shall be used in political jingles.

(4) All jingles shall conform to the standards of decency, taste, morally and truth.

(5) The same rate card and terms including any volume discounts and bonus allocation shall be offered to all parties and to all candidates.
PART V

COMPLAINTS AND APPEALS

18. —(1) The complaints shall be submitted to the content services provider within forty eighty (48) hours of airing the complained material.

(2) Where a complainant is not satisfied with the decision made by broadcaster, shall lodge the complaints to the Content Committee of the Authority within 48 hours after the decision;

(3) In considering the reasons for reply, the following facts can be considered among others so as to constitute the grounds for upholding the right to reply-
   (a) a charge against integrity and privacy; or
   (b) breach of the balance and fairness rules.

(4) In the event of content services provider rejecting or refusing to transmit any political advertisement.

(5) Where a complainant has not been satisfied with the decision provided by the Authority, the complainant shall submit an appeal to the Fair Competition Tribunal.

19. Without prejudice to other provisions of the Laws, the following are the procedures for filing complaints:

(a) formal complaints about an election programme shall be:

(j) made in writing; and

(ii) lodged directly to the Authority within 48 hours of the broadcast.

(b) complaints shall specify-

   (i) that the complaint is a formal complaint about an election programme;
(ii) the name of the programme;

(iii) the party or candidate featured in the broadcast;

(iv) the radio station or television channel where the broadcast featured;

(v) the date and time of broadcast;

(vi) the standard(s), for the purpose of this Code alleged to have been breached and the reasons;

(vii) states the intended relief by the complainant.

20. Where a political party or a candidate is aggrieved by the decision of the Authority the complainant may be allowed to appeal against the decision of Authority as follows-

(a) the complainant within 14 days may file notice of appeal to the Fair Competition Tribunal;

(b) within seven days after expiry of the period stipulated clause 20 (a) the complainant may lodge a formal application of appeal to the Fair Competition Tribunal;

(c) no person shall seek any relief deemed fit to be granted in a court of law with respect to any rejection, dispute or grievance arising from the interpretation or application of this Code unless the applicable procedures set out in the Code have been exhausted.

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Dar es Salaam                                      Director General-TCRA
October, 2014